

BILL ANALYSIS

Senate Research Center

S.B. 1365
By: Wentworth
State Affairs
7-6-95
Enrolled

BACKGROUND

Insurance companies which operate under Articles 5.13 and 5.16, Insurance Code, historically do not offer an indemnity product. As a result, it is impossible to produce actuarial data for the purpose of making rates.

PURPOSE

As enrolled, S.B. 1365 removes the requirement that certain prepaid legal service providers be required to produce non-existing actuarial data for the purpose of establishing rates.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 5.13-1, Insurance Code, by amending Subsections (a), (b), and (f) and adding Subsection (g), as follows:

(a) Deletes requirement that all rates, rate plans, and charges, are to be established in accordance with actuarial principles for various categories of insureds; the prohibition that the rates and charges not be excessive, inadequate, or discriminatory; and that the benefits be reasonable.

(f) Requires all legal services contracts and related promotional material issued pursuant to Chapter 23 and the issuance of legal services contracts pursuant to Article 5.13-1 to be truthful and accurate and to properly describe the coverage offered. Provides that such description should include, but not be limited to, a description of coverage offered as either an indemnity coverage or a contract that provides only consultation and advice on simple legal matters, that either alone or in combination with a referral service and that provides fee discounts for other matters. Authorizes the State Board of Insurance (board) to require that prepaid legal services contracts have rates that are adequate to reasonably provide the benefits under the prepaid legal services contracts. Provides that this subsection does not apply to a prepaid legal services contract that provides only consultation and advice on simple legal matters, either alone or in combination with the referral service, and that provides fee discounts for other matters.

(g) Prohibits the board from determining, fixing, prescribing, setting, or promulgating maximum rates or maximum amounts of premium to be charge for a prepaid legal service contract issued under this chapter. Requires the board to approve such rates as filed by any insurer unless it finds that such filing does not meet the requirements of this article. Deletes the provision that this article shall not be construed as to require the board to establish a single or uniform rate for each risk or risks or to compel all insurers to adhere to such rates previously filed by other insurers, and the board's empowerment to approve such different rates for different insurers.

SECTION 2. Amends Section 23.01(a), Insurance Code, to authorize a corporation, on application of any seven or more persons to the secretary of state for a corporate charter under the Texas Non-Profit Corporation Act to be incorporated for the sole purpose of establishing, maintaining, and operating non-profit legal service plans, whereby legal services may be provided

by such corporation through contracting attorneys as is hereinafter provided.

SECTION 3. Amends Articles 23.10, 23.14, and 23.15, Insurance Code, as follows:

Art. 23.10. CORPORATIONS NON PROFIT; FUNDS; INVESTMENTS. Requires the claim fund to be composed of at least 70 percent, rather than 80 percent, of the regular payments by participants, and the application fees. Makes a conforming change.

Art. 23.14. SUPERVISION. (a) Makes conforming changes.

(b) Prohibits the board from determining, fixing, prescribing, setting, or promulgating maximum rates or maximum amounts of premium to be charged for a non profit legal services plan under this chapter.

Art. 23.15. New heading: DUTIES OF CONTRACTING ATTORNEYS; ADEQUATE FINANCIAL STANDING. Deletes a requirement that the board approve the ratio of benefits to be paid to anticipated revenues from the rate schedule proposed to be used if found to be actuarially sound. Deletes a provision prohibiting prepaid legal services contract or benefit certificate thereunder from being used by corporations complying with this chapter without such finding.

SECTION 4. Effective date: September 1, 1995.

Makes application of this Act prospective beginning January 1, 1996.

SECTION 5. Emergency clause.